No. 87-6700-CFH
Status: GRANTED
CAPITAL CASE

Docketed:
March 29, 1988

Title: John Henry Selvage, Petitioner
v.
James A. Lynaugh, Director, Texas Department of Corrections

Court: United States Court of Appeals for the Fifth Circuit

Counsel for petitioner: Burr,Richrd H.

Counsel for respondent: Walt,Robert S.

3-29-88 Application to stay 3-30-88 execution filed (A-741)

Entry	Date	Note	Proceedings and Orders
1	Mar 29 1988	G	Petition for writ of certiorari and motion for leave to proceed in forma pauperis filed.
4	Mar 29 1988		a writ of certiorari.
6	Mar 29 1988		Application for stay of execution filed.
7	Mar 29 1988		Application for stay presented to Justice White and referrd to the Court.
8	Mar 29 1988		Application for stay granted by Order of the Court. White and O'Connor, JJ., would deny the application.
9	Apr 1 1988		Response to application received.
10	May 9 1988		Brief of respondent James A.Lynaugh, Director in opposition filed.
11	May 11 1988		DISTRIBUTED. May 26, 1988
12	May 25 1988	X	Reply brief of petitioner John H. Selvage filed.
13	Jun 17 1988		REDISTRIBUTED. June 23, 1988
16	Jun 24 1988		REDISTRIBUTED. June 29, 1988
17	Jun 25 1988	X	Supplemental brief of petitioner John H. Selvage filed.
18	Jun 23 1989		REDISTRIBUTED. June 29, 1989
20	Jul 3 1989		REDISTRIBUTED. September 25, 1989
21	Jul 3 1989		REDISTRIBUTED. September 25, 1989
23	Sep 29 1989		REDISTRIBUTED. October 6, 1989
25	Oct 10 1989		Petition GRANTED. limited to Question 1 presented by the petition, but rephrased as follows: "At the time petitioner was tried,was there 'cause' for not raising a claim based upon arguments later accepted in Penry v. Lynaugh,No. 87-6177 (June 26, 1989); and if not, would the application of a procedural bar to the claim result in a 'fundamental miscarriage of justice,' Smith v. Murray, 477 U.S. 478 (1986)?" **********
26	Nov 9 1989	D	Motion of petitioner to suspend briefing and further consideration filed.
27	Nov 9 1989	D	Motion of petitioner to certify question to Court of Criminal Appeals of Texas filed.
28	Nov 13 1989		DISTRIBUTED. NOV. 22, 1989. (MOTION TO CERTIFY QUESTION TO COURT OF CRIMINAL APPEALS OF TEXAS, AND MOTION TO SUSPEND BRIEFING AND FURTHER CONSIDERATION).
29	Nov 13 1989		Joint appendix filed.
30	Nov 16 1989		Opposition of Respondent to motion of petitioner to certify

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Entry	Date	Note	Proceedings and Orders
			question to Court of Criminal Appeals of filed.
31	Nov 16 1989		Opposition of Respondent to motion of petitioner to suspend briefing and further filed.
32	Nov 20 1989	X	Brief of petitioner in reply to respondent's opposition to motions to certify question and to suspend briefing filed.
36	Nov 25 1989		Order extending time to file brief of petitioner on the merits until November 27, 1989.
33	Nov 27 1989		Motion of petitioner to suspend briefing and further consideration DENIED.
34	Nov 27 1989		Motion of petitioner to certify question to Court of Criminal Appeals of Texas DENIED.
37	Nov 27 1989		SET FOR ARGUMENT WEDNESDAY, JANUARY 17, 1990. (3RD CASE)
40	Nov 27 1989		Brief of petitioner John H. Selvage filed.
41	Nov 27 1989		Brief amicus curiae of Harris County Criminal Lawyers Assn. filed.
42	Nov 27 1989		Brief amicus curiae of Harvey Earvin filed.
38	Nov 29 1989	G	Application (A89-421) by petitioner to file a brief on the merits in excess of page limits, submitted to Justice White.
39	Nov 30 1989		Application (A89-421) granted by Justice White, allowing a maximum of 117 pages.
43	Dec 20 1989		CIRCULATED.
44	Dec 28 1989	X	Brief amicus curiae of Criminal Justice Legal Foundation filed.
45	Dec 30 1989	X	Brief of respondent James A.Lynaugh, Director filed.
46	Jan 8 1990	G	Application (A89-501) by respondent to file a brief on the merits in excess of page limits, submitted to Justice White.
47	Jan 8 1990		Application (A89-501) granted by Justice White, allowing a maximum of 65 pages.
48	Jan 10 1990	X	Reply brief of petitioner John H. Selvage filed.
49	Jan 17 1990		ARGUED.